

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RAMIRO RODRIGUEZ-CARILLO,

Petitioner,

v.

WARDEN GARRETT, et al.,

Respondents.

Case No. 3:20-cv-00267-LRH-WGC

ORDER

On May 12, 2020, this court denied petitioner's motion to proceed *in forma pauperis* and directed him to pay the filing fee in order to proceed with his petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. ECF No. 3. He has complied with that order and paid the required fee. ECF No. 4. The court has reviewed the petition pursuant to Habeas Rule 4, and the petition shall be filed herein and served upon the respondents.

A petition for federal habeas corpus should include all claims for relief of which petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever barred from seeking federal habeas relief upon that claim. See 28 U.S.C. §2244(b) (successive petitions). If petitioner is aware of any claim not included in his petition, he should notify the court of that as soon as possible, perhaps by means of a motion to amend his petition to add the claim.

In addition, petitioner included a motion for the appointment of counsel with his petition. ECF No. 1-2. Pursuant to 18 U.S.C. §3006A(a)(2)(B), the district court has discretion to appoint counsel when it determines that the "interests of justice" require

1 representation. There is no constitutional right to appointed counsel for a federal habeas
2 corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555(1987); *Bonin v. Vasquez*,
3 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is generally
4 discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986); *Bashor v. Risley*,
5 730 F.2d 1228, 1234 (9th Cir. 1984). However, counsel must be appointed if the
6 complexities of the case are such that denial of counsel would amount to a denial of due
7 process, and where the petitioner is a person of such limited education as to be
8 incapable of fairly presenting his claims. See *Chaney*, 801 F.2d at 1196; see also
9 *Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970). The petition on file in this action is
10 sufficiently clear in presenting the claim that petitioner wishes to bring. Also, the issues
11 in this case are not particularly complex. It does not appear that appointment of counsel
12 is warranted in this instance. Petitioner's motion for the appointment of counsel is
13 denied.

14 **IT IS THEREFORE ORDERED** that the Clerk shall FILE the petition for writ of
15 habeas corpus (ECF No. 1-1) and motion for appointment of counsel (ECF No. 1-2) and
16 ELECTRONICALLY SERVE the petition and a copy of this order on the respondents.

17 **IT IS FURTHER ORDERED** that the Clerk shall add Aaron D. Ford, Attorney
18 General of the State of Nevada, as counsel for respondents.

19 **IT IS FURTHER ORDERED** that respondents shall have 60 days from the date
20 of entry of this order to appear in this action, and to answer or otherwise respond to the
21 petition.

22 **IT IS FURTHER ORDERED** that if respondents file an answer, petitioner shall
23 have 60 days from the date on which the answer is served on him to file and serve a
24 reply. If respondents file a motion to dismiss, petitioner shall have 60 days from the
25 date on which the motion is served on him to file and serve a response to the motion to
26 dismiss, and respondents shall, thereafter, have 30 days to file a reply in support of the
27 motion.

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1 **IT IS FURTHER ORDERED** that any additional state court record exhibits filed
2 herein by either petitioner or respondents shall be filed with a separate index of exhibits
3 identifying the exhibits by number. The CM/ECF attachments that are filed further shall
4 be identified by the number or numbers of the exhibits in the attachment. The hard
5 copy of any additional state court record exhibits shall be forwarded – for this case – to
6 the staff attorneys in **Reno**.

7 **IT IS FURTHER ORDERED** that petitioner's motion for appointment of counsel is
8 DENIED.

9 DATED this 16th day of June, 2020.

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11 LARRY R. HICKS
12 UNITED STATES DISTRICT JUDGE
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